

# **TSCA Update**

## **Regional Division Director's Meeting**

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November 18, 2020

U.S. Environmental Protection Agency

Good afternoon, everyone. It is a pleasure to be here today.

As you may know, I joined the Office of Pollution Prevention and Toxics as its new director this Spring. Unfortunately, given the times, I am not able to meet with you in person – but I look forward to hearing from you now and in the future.

Thank you for requesting an update on the implementation of the Toxic Substances Control Act – I'll do my best to give you a quick update there, and to touch very briefly on some of the other specific topics you requested on risk management; the TRI National Analysis; and our PFAS 8(a) rule under development.

## **Existing Chemicals Assessment to Action**

### **Prioritization**

- 20 Highs (December 2019)
- 20 Lows (February 2020)

### **Assessment**

- Risk Evaluations
  - Status of Initial 10
  - 20 High-priority
    - Scopes and Initial List of Manufacturers Subject to Fees released in September
  - Manufacturer-Requested

### **Action**

- Risk Management in 2020
  - Must begin immediately after final risk evaluation if unreasonable risks identified for any conditions of use

So let me start with where we are on our assessment of existing chemicals.

We have and continue to make great progress on our risk evaluations. As most of you already know, EPA has finalized 4 risk evaluations under TSCA, and we're on track complete the remaining 6 of our "first ten" by the end of the year.

Because these documents will guide our future risk management actions, the agency is taking the time necessary to ensure they are high quality, reflect the best available science, and meet the necessary requirements under TSCA.

When Mark Hartman spoke to you all earlier this year, we were just finishing up some of our prioritization steps to identify the next set of chemicals for risk evaluation under TSCA. For the 20 high priority chemicals we identified back in December, we released both the scopes and an initial list of manufacturers subject to fees this September.

In addition to the first ten and 20 high priority, EPA is also dealing with manufacturer requested risk evaluations. To date, EPA has granted requests for two phthalates and one additional chemical, D4.

Following our assessment of these chemicals, we move to action.

## Risk Management Requirements

- Under TSCA, EPA is required to take action to address chemicals that pose unreasonable risks to human health or the environment
- EPA must issue a TSCA section 6(a) rule following risk evaluation to address all identified unreasonable risks within two years:
  - Proposed rule one year after risk evaluation
  - Final rule two years after risk evaluation
- Required under TSCA to address all unreasonable risks
- Specific requirements on consideration of alternatives, selecting among options and statement of effects apply to risk management rules
- Input from all stakeholders is critical to the process, including but not limited to agency workgroups, small businesses, chemical users, NGOs, etc.
- Final risk evaluations published for methylene chloride, 1-bromopropane, HBCD, and carbon tetrachloride. All identified unreasonable risks.
- Six more risk evaluations in final stages of completion.
- Aggressive rulemaking timelines

In terms of action, EPA must immediately move to risk management after a final risk evaluation is issued if unreasonable risks are identified for any conditions of use.

As you can see from this slide, there are some aggressive rulemaking timelines that we have to contend with – and EPA must propose a rule within one year of a final risk evaluation and finalize a rule within two.

We've begun our work to gear up on the risk management activities for methylene chloride, 1-bp, HBCD, and carbon tet – and as I mentioned earlier, we have another six risk evaluations which will be finalized soon, which may require their own rule making activities.

## Regional Engagement in Risk Management

- Given the aggressive timelines for rulemaking, OPPT is, by necessity, leading change in how this work is done.
- Stakeholder engagement is a critical element of the effort, to ensure any future regulations are based on timely information and are practical and implementable.
- Regions can play a role in helping identify stakeholders and in amplifying our outreach, e.g., to the environmental justice community.
  - Formal consultations are ongoing for Federalism, Tribal governments, small businesses, and EJ
  - We routinely meet with interested stakeholders from industry and NGOs
- Regions may also choose to have staff participate in rulemaking workgroups
  - Workgroups are operating under tight timelines
- Contact ECRMD for more information.

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Addressing the unreasonable risks we've found in some chemicals is going to be a difficult process, and we know that we need input, expertise, and feedback from stakeholders now – early in the process – to help shape the path forward.

There will be several opportunities for us to gain this input, including public comment periods, webinars and required consultations with state and local governments, tribes, environmental justice communities, and small businesses. For example, we recently held public webinars on the first two final risk evaluations to educate stakeholders and get initial feedback on the risk management process. Our third webinar, on HBCD, will occur next week.

During these engagements, participants will have the opportunity to provide input on potential risk management approaches, their effectiveness, and any impacts those approaches might have on businesses.

We will also hold one-on-one meetings with stakeholders as requested.

The goal is to end up with a path forward that mitigates risks and meets the needs of everyone involved in a thoughtful way.

This slide notes some of the areas where regions can play a role in this process if they so choose – including helping us identify stakeholders; amplifying our outreach; or participating in our rulemaking workgroups.

If you or your staff are interested, please contact our Existing Chemicals Risk Management Division for more information.

## Other Actions

### PBT Rules

- Proposed rule covering all five PBTs was signed statutory deadline of June 22, 2019
- Each PBT will have its own final action which we are aiming to finalize later this year.

### Lead Rules

- Revised Dust Lead Hazard Standards
  - Finalized July 2019
- Revised Dust Lead Clearance Levels
  - Proposed Rule published in June, working to finalize the Rule shortly
- Thank you for significant regional work for the lead-based paint program

This slide is just a quick acknowledgement of some of the other pending rules that you may have interest in – and that we’re working to finalize in 2020.

For PBTs, each of the five persistent bioaccumulative toxic chemicals that were identified for expedited action in 2016 (DecaBDE, PIP 3:1; TTBP; HCBP and PCTP) will have its own final action later this year.

For lead, in June we released a proposal to reduce the amount of lead that can remain in dust on floors and windowsills after lead removal activities to better protect children from the harmful effects of lead exposure.

The proposed, tighter standards would increase the effectiveness of work done to remove lead-based paint hazards in pre-1978 homes and childcare facilities and lower the risk of lead exposure by ensuring that lead-based paint hazards are effectively and permanently eliminated following completion of the work.

We’re working hard to finalize that rule by the end of the year.

I’ll leave it there – as Brian Symmes will give you deeper dive on lead later this afternoon in a separate session.

## **RY 2019 TRI National Analysis**

- Production-related waste managed decreased 3% from 2018-2019
- Total disposal or other releases decreased 9% from 2018-2019 to 3.4 billion lb
- New this year:
  - Profile of fabricated metals manufacturing sector
  - Infographic illustrating how TRI fits into the larger picture of EPCRA
  - Comparative analysis of impact of late filers and revisions
  - Expanded regional breakdown of national data (next slide)

Moving on from TSCA to the Emergency Planning and Community Right to Know Act, I wanted to give you a quick teaser of some of what we're expecting for the Reporting Year 2019 National Analysis, which will be released early next year.

OPPT is still working through the data, and our initial findings are based off of preliminary data from September – so please note that some of what I relay may change slightly in the final National Analysis dataset.

The forecast so far: production-related waste is down. 89% of production-related waste managed was not released to the environment due to preferred waste management practices – nationally, the percent of production related waste that is recycled continues to increase.

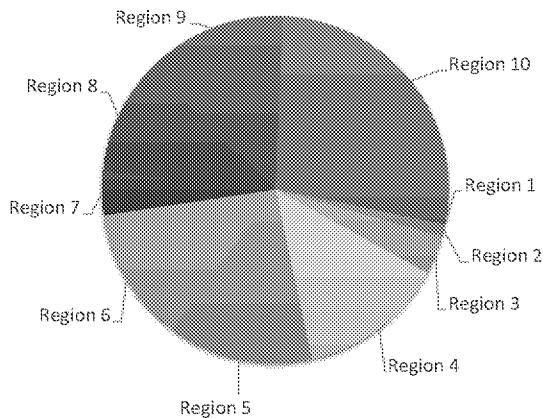
Total disposal (or other releases) are also down – for reporting year 2019, they went down by about 9%.

The hand-out provided will give you more early details on both of these findings.

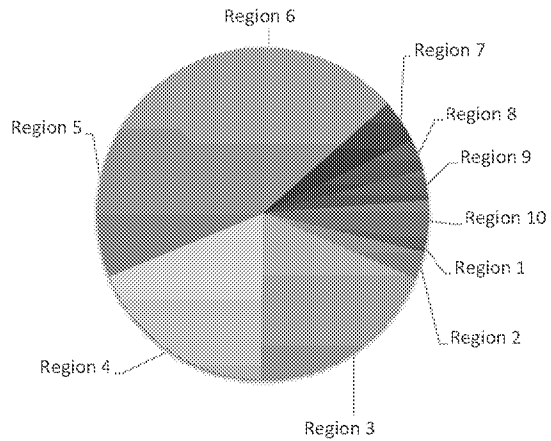
I'd also be remiss if I didn't let you know that OPPT continues to work to improve the analysis itself. This year we have a number of new features that we are hoping to roll out, including an expanded regional breakdown of national data.

## 2019 NA – Regional Comparison of National Data

Releases by Region, 2019



Production-Related Waste by Region, 2019



New regional comparison added to landing page for regional profiles section of the 2019 National Analysis

Here's a teaser of that regional comparison that I just mentioned.

The differences in leading regions between the two pie charts is largely explained by the types of industry located in each region. For example:

In Regions 8, 9 and 10, metal mines accounted for more releases than any other sector. Metal mines tend to have high releases due to the large quantities of metals disposed on-site to land. For quantities of waste managed through treatment, energy recovery and recycling, metal mines rank lower than almost all other sectors, resulting in lower production-related waste in regions with a lot of metal mining operations.

Region 6 had the highest quantity of production-related waste managed, driven by facilities in the chemical manufacturing sector treating chemicals on site, such as ethylene and propylene.

## **Regional Support for 2019 National Analysis Publication**

- Assistance with data quality calls to facilities (all)
- Participation on National Analysis workgroup by regional coordinators (R5 and R8)
- Support in development of Spanish search tool on TRI homepage (R4)
- Review of each regional profile for inclusion in NA website (all)
- Assistance in planning communications roll out activities which could include developing regionally-specific press releases and planning/executing regional media calls or events. (all)

Most importantly, I did want to share this slide forecasting how the regions can continue to help us with the release of the 2019 National Analysis Publication.

This slide goes over some of the key activities that regions can engage in to help us this year.

Of note - we don't know yet what a new administration will want to do in terms of communicating out the results of the analysis – but that would very likely include your team again.



## PFAS

- NDAA
  - NDAA automatically added 172 PFAS to the TRI
  - Section 8 rule for PFAS data required by January 2023
- Long chain PFAS Significant New Use Rule
  - Signed June 2020
  - To account for articles provision in TSCA, the final rule requires review for new or phased out uses that could otherwise begin without review/restrictions
  - Supplemental Guidance on Surface Coatings
- New Chemicals Program
  - Review and restrictions to address any unreasonable risk for new PFAS

PFAS is of course one of the “hot” environmental issues right now, and we continue to get questions from our regional partners about our actions in this space.

The Agency has put together a comprehensive PFAS Action Plan, which draws on all our programs and authorities to address this chemical in a variety of environmental media and settings. So let me talk a little bit about what OPPT is doing as a part of that effort by highlighting two of the actions on this slide.

Under the National Defense Authorization Act, OPPT immediately added 172 chemicals to the TRI. Information we receive on those chemicals will be included in the TRI 2020 National Analysis – which will be published in early 2022. We also continue to review CBI chemicals from the NDAA and ANPRM for potential addition to TRI.

In June we took action to minimize certain long-chain PFAS chemicals which persist in the environment and can cause adverse health effects.

Our final rule restricts manufacturing, importation, production or sale of products that could contain certain PFAS chemicals unless EPA reviews and approves the use or puts in place the necessary restrictions to address any unreasonable risks.

This action also levels the playing field for companies that have already voluntarily phased-out the use of long-chain PFAS chemicals under EPA’s PFOA Stewardship Program by preventing new uses of these phased-out chemicals from starting up again.

Before this action, the use of these PFAS could have started again at any time without EPA’s approval.

We are additionally working on issuing draft guidance for public comment on surface coatings relating to the final rule, including clarification on what constitutes a surface coating under the rule.

## TSCA Section 8(a)(7) PFAS Data Call

- EPA must finalize a rule by January 1, 2023 to require manufacturers (including importers) of PFAS in any year since January 1, 2011 to submit a report to EPA containing certain information for each year since January 1, 2011
- The scope of PFAS for this rulemaking will be presented as a list and as a definition with structural examples in order to capture any PFAS without specific chemical identities.
- Rule will collect data on amounts manufactured or processed, descriptions of byproducts, all *existing* info on environmental and health effects, worker exposure, disposal, among other data elements.

I was asked to speak to you about one PFAS action in particular – the Section 8 rule for PFAS data.

As mentioned on the last slide, the NDAA modified TSCA to include a mandate – and EPA must finalize a rule by 2023 for manufacturers (including importers) of PFAS to submit certain information to EPA.

The NDAA broadly described PFAS; EPA is interpreting PFAS to determine scope of universe to propose for the data call.

The scope of data collection resembles CDR reporting with added data elements – such as the maximum amount of the PFAS onsite during the reporting year.

Regions have the opportunity to provide input throughout the rulemaking process and would have access to data collected following its finalization



## **Pollution Prevention (P2)**

- FY 20-21 P2 STAG grants
  - 42 grants across 39 states.
- FY 20-21 Source Reduction Assistance (SRA) grants
  - 11 grants across 9 states
- Both programs require substantial participation from regions – thank you for all your efforts!

This year marks the 30th anniversary of the Pollution Prevention Act.

For the past 30 years, this Agency has partnered with states and tribes through our P2 grants to support U.S. businesses seeking information about P2 and source reduction opportunities. Our grantees have helped thousands of businesses identify, develop, and adopt P2 approaches which have significantly reduced the use and release of hazardous materials into the environment and saved businesses over \$1.5 billion.

We greatly appreciate the sustained regional engagement in our P2 work which has made this possible; our joint efforts have made great strides to stop pollution at its source, resulting in less waste, economic growth, and protection of public health.

I'll leave it there – as David Widawsky will cover P2 in further depth in a session later this afternoon.



# **Thank You!**

Thank you for all the regional engagement in  
TSCA, EPCRA, and P2 Act work!

Let me end my remarks with a final note of thanks. The Office of Pollution Prevention and Toxics greatly appreciates regional interest and engagement in our work – and we look forward to our continued partnership going forward.